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Tideman

Commons and Commonwealths: The Justification of Territorial Claims

T. Nicolaus Tideman

Introduction

The traditional problem of the commons is the problem of providing for the efficient and equitable use of resources that belong equally to the members of a "commonwealth"--a community, nation or other social entity. But there is prior problem of the commons: On what basis can the members of a commonwealth claim that land belongs to them, and not to some other commonwealth?

This paper argues that customary justifications of the claims to territory and natural resources are inconsistent and promote conflict, while a variation on the ideas of John Locke has the potential to sustain lasting peace. While justifications of claims to territory and natural resources customarily rest on an inconsistent combination of might-makes-right and appeal to history, this paper suggests that such claims ought to be made instead in a framework that recognizes an obligation to take account of the equal claims of all humanity. The claim of a given commonwealth can then be justified by a correspondence between the fraction of the world's population making the claim and the fraction of the world's land (in terms of rental value) being claimed. As is traditional in economics, "land" is taken here to include exhaustible natural resources as well as territory.

In a world where this neo-Lockean justification of the claims of nations to land prevailed, people would carry with them their claims to proportionate shares of the world's land when they migrated from one commonwealth to another, and would have the option of exercising their claims in new commonwealths of their own creation. The world would therefore have a resemblance

to that proposed by Charles Tiebout, where people with similar tastes formed communities that provided the particular public services that they wanted.¹

Because people could be presumed to have agreed to the rules of the places where they resided, no rules would be forbidden. This would result in a world with many of the libertarian properties advocated by Robert Nozick.² Unlike Nozick's construct, the construct advanced in this paper justifies claims only to the *use* of land, and not to its ownership in perpetuity.

The equal sharing of land makes the construct of this paper similar to the "Liberalism" proposed by Bruce Ackerman.³ The principal departures from Ackerman's construct are that Ackerman implicitly envisions a world-wide Liberal polity that sets the rules for inheritance and allocates extra shares of wealth to people with genetic disadvantages. In the construct of this paper, on the other hand, conventions regarding inheritance and provision for people with genetic disadvantages would be matters for more decentralized decisions.

Competition among commonwealths for citizens could be expected to generate an equilibrium in which taxes on land, as advocated by Henry George,⁴ were the predominant source of public revenue. But any rules for taxation to which the people of a commonwealth agreed would be permissible.

1 Charles M. Tiebout, "A Pure Theory of Local Expenditures," *Journal of Political Economy* 64 (October 1956), pp. 416-24.

2 Robert Nozick, *Anarchy, State and Utopia*, Basic Books, 1974.

3 Bruce A. Ackerman, *Social Justice in the Liberal State*, Yale University Press, 1980.

4 Henry George, *Progress and Poverty*, Robert Schalkenbach Foundation, 1979.

The territorial claims of individuals and of groups smaller than nations are generally justified in part by the claims of nations. In the construct of this paper, on the other hand, the territorial claims of nations and other groups are justified by the territorial claims of individuals.

Current Justifications of Territorial Claims

The territorial claims of nations are generally justified currently by one or both of the following arguments:

1. Might makes right.
2. The claims accord with history.

These arguments cannot be expected to provide the basis for lasting peace, either individually or together.

When the territorial claims of nations are justified by the argument that might makes right, only temporary peace is possible. Changing conditions lead potential claimants to think it likely that current boundaries would not prevail in a showdown. If might-makes-right is the justification of claims, then there is no bar in conscience to breaking the peace and provoking a showdown to see whether existing boundaries can be defended. If boundaries can be altered by conflict, then, under might-makes-right, the new boundaries will have the same justification that the old ones had. Conflict itself is not inevitable with every change in power relations; those whose power diminishes sometimes recognize the changed conditions and concede territory. However, disagreements about effective power are resolved only by breaking the peace.

The argument that might makes right is sometimes dressed up in a bit of rhetoric. One example of this is the nineteenth century assertion that it was

the "manifest destiny" of the United States to expand to the Pacific Ocean. Another is the justification of the existence and expansion of the State of Israel based on the assertion that God instructed Joshua to lead the Israelites into that territory. A third is the justification of the hegemony (a form of territorial claim) that Russia has exercised over other countries, based on the assertion that the Russian Communist Party was the sole possessor of infallible understanding of social progress. The characteristic that reveals these as no more than rhetorical variations on might-makes-right is that they convince almost no one outside the nations that use them to justify expansion.

The argument from history requires separate treatment. The simple form of this argument is that the territorial claims of a nation are justified merely because the boundaries are historical. The difficulty with this argument is that virtually everywhere on the planet, one can go only so far back into the past before a war is encountered that changed the boundaries of nations. How is this to be dealt with? The answer implicit in political rhetoric seems to be that there may be no justification for the boundary changes imposed by past wars, but nevertheless the boundaries of the current status quo ought to be preserved and honored. The trouble with this argument is that there is no magic to any particular date after which aggression ought to stop. After any seizure of territory those who did the seizing can say "Let's freeze all boundaries now," and the suggestion is no better or worse than freezing the previous boundaries. Trying to go back to earlier boundaries does not work either. If the Libyans should get out of Chad, why shouldn't Russia return the Northern Kuriles to Japan, free Latvia, Lithuania and Estonia, and return the portions of Finland and Poland seized in World War II? Why shouldn't

America be returned to Native Americans? Why shouldn't Ireland be returned to the descendants of those who controlled it before Cromwell's invasion? Can any claim be justified?

An effort to provide a respectable foundation for most existing territorial claims without endorsing armed seizures has recently been made by Murray Rothbard. Rothbard's theory is built on the propositions that the transformation of any previously unowned thing provides the basis of a claim of ownership of that thing in perpetuity, and that anything that is stolen should be returned to the person who first transformed it usefully, or to his or her assignee through trade, gift or inheritance. If that person cannot be identified, the thing belongs properly to its present user, unless the present user stole it.⁵

By Rothbard's theory, any Irish family that can identify the land that was taken from their ancestors and assigned to Scottish immigrants centuries ago has a valid claim to that land, while any Irish family without specific knowledge of what land was taken from their ancestors has no such claim. The Israelis who are using land from which identifiable Arab families were driven in 1948 would have an obligation to return the land to those families, while those Israelis who are using land whose pre-independence users (or their heirs) cannot be identified would have valid claims to the land, unless the present users themselves were the ones who drove the previous users away, in which case the land would belong to the first person to dispossess the current user and apply some labor to it. It is bizarre to make the validity of a

⁵ Murray Rothbard, *The Ethics of Liberty*, Humanities Press, 1982, pp. 56-57.

territorial claim depend on the accident of whether the descendants of the holder of a previous claim can be identified, when we can be confident that virtually all claims can be traced back to forcible dispossessions.

A Lockean Justification of Territorial Claims

A Lockean justification of territorial claims can be built from the famous "proviso" in the passage in which Locke assigns property in the products of human labor to those who labor:⁶

The *Labour* of his Body, and the *Work* of his Hands, we may say, are properly his. Whatsoever then he removes out of the State that Nature hath provided, and left it in, he hath mixed his *Labour* with, and joyned to it something that is his own, and thereby makes it his *Property*. It being by him removed from the common state Nature placed it in, hath by this *labour* something annexed to it, that excludes the common right of other Men. For this *Labour* being the unquestionable Property of the Labourer, no Man but he can have a right to what that is once joyned to, at least where there is enough, and as good left in common for others.

While this statement is primarily a justification of claims to the products of human labor, it also contains the seed of a justification of territorial claims: The use of territorial resources provides the basis of a claim upon those resources, provided that resources of the same value are left for others.

⁶ John Locke, *Two Treatises of Government*, Cambridge University Press, 1960, Second Treatise, section 27.

It might seem that no territorial claims could be consistent with Locke's proviso that there be "enough, and as good left in common for others," because the future will bring untold generations, and however little each person draws from the stock of what nature offers, the stock will eventually be exhausted. Locke himself appeared to believe that there was enough unclaimed land in America, when he wrote, for everyone to have as much as he or she could use, so that the proviso would not be an operative constraint.⁷ Whether or not such a condition was satisfied when Locke wrote, it is clear that it is not satisfied now. And even if there were unclaimed land now, a growing population would eventually claim it all, leaving none for further claimants, so that the very first claim would be inconsistent with Locke's proviso.

The problem of eventual exhaustion of land to be claimed does not inevitably arise if claims are made not upon the *stock* of land, but rather upon the *flow* of services from land. If each person makes a claim upon the *use* of land, of a value such that all other people alive at that time can make claims of the same value without exceeding what nature offers, then Locke's proviso is satisfied. It may be difficult to know in any particular situation whether or not a claim to the use of land is consistent with the proviso. The problem of making such determinations is taken up later. What is important here is that while the finiteness of land makes *all* claims to the *perpetual possession* of land inconsistent with Locke's proviso, *some* claims to the *use* of land are consistent with it.

For a resource that is not "used up" by being used (surface rights), if there is so much of the resource that everyone can use as much as he or she

⁷ *Ibid.*, Second Treatise, section 36.

desires (if such surface rights currently command no rent), then any and all use of that resource is consistent with Locke's proviso for as long as the absence of rent prevails. But as soon as rent arises, the proviso limits what a person can claim.

Natural resources share with surface rights the quality of being provided by nature, but differ from surface rights in that they are exhaustible. Therefore the application of Lockean principles to natural resources requires separate treatment. If the world is to last indefinitely (or at least until the sun gives out in five billion years or so), then each person's share of these resources is infinitesimal. But to allocate them in such a way is to make them virtually worthless. The value derived from exhaustible natural resources would be maximized while treating all people in all generations fairly if the resources were sold to the highest bidders, the proceeds were invested, and a uniform annual dividend were paid to all people, in all nations, in all generations. Any person's claim upon exhaustible natural resources is consistent with Locke's proviso if the value of the claim is no more than a person's dividend under such a rule would be. Locke's proviso thus constrains the claims that people can make upon exhaustible natural resources as well as surface rights, but it does not impose impossible constraints.

In the neo-Lockean world envisioned in this paper, the claims of commonwealths to land are derived from those of their citizens. A commonwealth's claim to land is justified if its per capita use of surface rights plus exhaustible natural resources is such that every person in every generation could claim as much without exhausting what nature offers. If a commonwealth's claim to land was found to be excessive, there would be three

possible remedies: The commonwealth could reduce the size of its claim, it could recruit additional citizens, or it could pay compensation to people or commonwealths that were claiming less than their shares of land.

The advantage for lasting peace of justifying territorial claims on the basis of their proportionality is that it is then unnecessary to incorporate endorsement of any past injustices into the justification of a commonwealth's territorial claim. It is therefore not necessary for the sufferers of past dispossessions, or their descendants, to restart the game of might-makes-right to secure their shares of what nature provides.

Claims on People and on the Products of Labor

While this paper is concerned primarily with justification of claims to land, it is interesting to note that there are attractive and consistent Lockean theories of claims on people and on the products of labor. It is fairly well settled in the West that nations do not have property claims to people, that the only valid claims of property in competent people are those of each competent person over himself or herself. As Locke said,⁸

Though the Earth and all inferior Creatures be common to all Men,
yet every Man has a *Property* in his own *Person*. This no Body has any
Right to but himself. . . .

Our acceptance of Locke's axiom is reflected in the outrage we feel that citizens of some countries are not able to emigrate at will. It may explain why we have never tried to prevent our richest citizens from exiling themselves to tax havens like Monaco. It is noteworthy that as many restrictions

⁸ *Ibid.*, Second Treatise, section 27.

as there are on individual freedom, that are ostensibly for the benefit of those restricted (restrictions on the drugs and medical treatments that we can use, restrictions on who we can hire to cut our hair or give us legal advice), no one in the U.S. ever seems to have suggested that people should be prevented for their own good from emigrating to totalitarian countries. This may be a reflection of how strongly we feel that no one has a justified claim to any other person.

Our record on freedom of emigration is not perfect: The effort to prevent men of draft age from leaving the U.S. during the Vietnam war was not consistent with a principle that claims to people can only be made by the people themselves. However, that effort was never whole-hearted.

Locke's theory of claims on the products of human labor is stated in the passage quoted earlier, containing his proviso. It can be summarized by saying that the products of human labor, which consist of labor combined with land, belong to those who produce them, provided that the amount of land embodied in them is not excessive. It might seem that the pervasive taxation of incomes is evidence that Locke's view has been rejected. However, there is another perspective from which our beliefs are consistent with Locke: People cooperate to provide themselves with a variety of goods and services through governments. There is no reason in principle why these services should not be financed by income taxes if that is the method of financing that people in a particular society want. Taxation would be inconsistent with the Lockean principle of ownership of the products of human labor only if people could not escape the taxation by moving. And while there are many calls for international cooperation, so far we have seen very little if any support for a worldwide tax authority that no one could escape. What is needed to make our

practices fully consistent with Locke is the opportunity for people, not only to emigrate to any country that will have them, but also to take with them their claims to their shares of land, or to exercise those claims in new commonwealths of their own creation.

This understanding of the justification of territorial claims resolves the dilemma of how a commonwealth can justify excluding from its boundaries some who wish to immigrate. On the one hand, a desire to exclude others so that the commonwealth's citizens can enjoy disproportionate access to land is not honorable. But on the other hand, there are honorable reasons for seeking to exclude some persons. As Henry George said in a letter to William Lloyd Garrison II in 1893,

To your proposition that the right of the use of the earth is not confined to the inhabitants of the United States, I must cordially assent. But when you seem to think it follows that "the humblest Chinaman has as much natural right to the use of the earth of California as yourself, and it is your inalienable right to change your residence to any land under the sun," I must emphatically deny. Are men merely individuals? Is there no such thing as family, nation, race? Is there not a right of association, and the correlative right of exclusion?⁹

Exclusion is honorable when it is possible to say to those who are excluded, "We have left as much for each of you as we have claimed for ourselves."

⁹ Quoted in Charles A. Barker, *Henry George*, Oxford University Press, 1955, p. 135.

Valuing Claims to Territory

How could it be ascertained whether any particular territorial claim met the test of being no more than anyone else could claim? Four quantities would be needed: The annual rental value of all territory in the world, the population of the world, the annual rental value of the territory being claimed, and the number of people making the claim. From these four numbers it would be a simple matter to calculate whether a claim exceeded what others could claim.

The first of these four numbers, the rental value of all territory in the world, would be by far the most difficult to estimate. If one were to go simply on the basis of acres, the amount available would be about 33.4 billion acres for the six continents other than Antarctica, or about 6.7 acres per person for 5 billion people. By contrast, the U.S. has about 10 acres per person. (Without Alaska it would be about 8 acres per person.)

Territory varies greatly in its unimproved rental value, and it would be necessary to take account of these variations, both in fertility and in locational factors such as access to the seas, in computing world territorial rent. However, it would be inappropriate to take account of the fact that a particular area has historically been urbanized. For example, once one gets a few miles from the Mississippi River, locations in Iowa are of substantially equal value as potential locations for towns, apart from the influence of human improvements. Therefore, to the extent that this is true, Iowa towns away from rivers should not be regarded as occupying territory that is inherently more valuable than the surrounding countryside. Similarly, a long stretch of the west bank of the Delaware River is about as suitable for a major city as the location where one finds Philadelphia. Therefore, a

significant portion of the value of the territory under Philadelphia, and other cities, is due to a history of urbanization. It is the product of the labor of those who created, and those who continue to sustain, these cities. This part of the rental value of territory should be excluded in the computation of world territorial rent that would be used to determine whether territorial claims were excessive.

The unimproved rental value of a region--the value that would be included in the computation of world territorial rent and shared on a world-wide basis--may be conceived as the greatest amount that any person or group other than its present users would be willing to pay, annually, for use of it, if it had never been improved. But that part of a region's rental value that arises as a result of general world economic growth is properly incorporated into the amount that is charged to the commonwealth that claims that land. For example, if ports become more valuable because of growth of international trade, then any commonwealth that claims a port is claiming a greater share of land rent. But a commonwealth's share of land should not be viewed as rising just because it finds a better use for what it claims. It would be necessary to make such comparisons as, "The land around Marseilles has the same inherent capacity as a port as the land around Barcelona, so France should be charged as much for claiming the land around Marseilles and Spain is charged for the land around Barcelona."

While it is difficult to make the necessary estimates from the kinds of data that are currently available, there are things that could be done to improve our ability to make such estimates. If societies were prepared to see their boundaries as flexible, then they could state rental prices at which they would be willing to accept marginal changes in their boundaries. In

principle, the price per acre for an expansion of boundaries ought to be very close to the price per acre for a contraction. If the value of land at the border was not significantly affected by the development of the society, and if the intrinsic value of the land occupied was reasonably uniform, then the rental value of territory at the border would serve as an estimate of the rental value of territory in the interior.

If a community were willing to subject itself to a very small, insurable risk of dissolution, it could obtain a market determination of the rental value of all the territory it occupied. The community would agree that if a random process yielded a specified outcome with a probability on the order of one in a million, then they would collect on their insurance, remove all of their improvements from the territory, and disband. Before the outcome of the random process was known, they would solicit bids for their territory in the form of annual rental values should they depart, from other potential users. The greatest of these would be the annual rental value of the territory. If just a small, well-dispersed proportion of communities were willing to take such a risk, a reasonable estimate of the rental value of all territory could be made.

These suggested procedures for estimating the rental value of territory are admittedly imprecise. People committed to not claiming more than their shares of land would need to solicit and abide by disinterested expert opinion, and tolerate its imperfection.

It should be noted that there is no need to confine determinants of value to those that are generally regarded as "economic." If India and China both wish to claim a part of Ladach, a desolate region on the Tibetan border, then it would be inconsistent for either one of them to claim both that the

territory had an insignificant value and that they had to have it. The value of territory that one nation claims is what that territory would be worth to some other nation (if it had been unimproved), even if there is no way to account for the fact anyone wants it in terms of the customary economic determinants of value. The nation that places the highest value on the territory receives control of the territory, and all other nations receive larger shares of rent as a result.

Valuing Claims to Natural Resources

Natural resources pose greater difficulties in just appropriation than land. Consider the case of oil. The future value of oil depends very greatly on the timing of new technological discoveries. If cheap energy from nuclear fusion or solar power or some other breakthrough is just around the corner, then the best use of oil is to consume it now, when the new technology is not available. On the other hand, if such developments will come far in the future if ever, then we are well advised to conserve oil and use it only where it is extremely valuable.

If oil is privately owned, the owners will have an incentive to attempt to allocate the sale of oil over time in such a way as to maximize its expected value. This suggests the possibility of selling off all natural resources immediately and investing the proceeds for the benefit of all generations, as a way of allocating natural resources efficiently and equitably. The difficulty with this approach is that markets do not provide perfect information about the future value of resources. When the market underestimates the future value of a resource, future generations will be treated unfairly by the sale of their shares of resources at inadequate

prices. It is not clear what the best solution to this problem is, but one possibility would be to leave title to resources not yet extracted unassigned, and have those who use exhaustible resources purchase insurance against the possibility of their uses later being shown to be excessive. The seller of insurance would be obliged to pay any losses that emerged later from having used the resources too soon.

Whatever procedure was used to allocate natural resources over time, in a world committed to justifying claims to natural resources by the Lockean proviso, those who extracted natural resources would make payments into an investment fund for future generations, unless they could be confident that the value of what they took did not exceed the value available to others in all generations.

Life in a World with a Proviso Foundation for Claims

In a world where the Lockean proviso was the universally accepted foundation for claims to land, there would be a clearinghouse for compensation for people whose claims were less than their per capita shares. Those whose claims were excessive would pay into a fund, and the fund would pay those whose claims were less than the standard. To reduce transactions costs, people would probably agree to let governments act as their agents. As long as people were free to migrate, it could reasonably be expected that each person would receive the full value of his or her claim even if governments were universally the agents.

Competition among governments for citizens would lead governments to make offers to their current and prospective citizens of the full value of having another citizen, unless citizenship carried with it other privileges that

placed costs upon governments, in which case citizens would be receiving part or all of their per capita claims in kind. Thus the sharing of territorial claims leads by a market process to an institution resembling a guaranteed income. People who were otherwise unable to care for themselves would be able to obtain some minimum level of provision for themselves by agreeing to turn over their territorial claims to those who provided for them. Whether such a grant could sustain life without supplements from other sources could only be ascertained after a careful calculation of what the per capita rent would be.

Governments would have relatively little ability to tax the returns to the labor and capital of their citizens, because of competition among governments for citizens. Instead, the source of financing for public activities would be, primarily, the excess of land rents in developed areas above the value of the land in its undeveloped condition. This source would provide sufficient revenue for financing any worthwhile activity, provided that: 1) benefits occur only within the territory of the government financing the activity; 2) marginal-cost charges are used to offset any "crowding" effects; and 3) the activity is valued as highly by potential beneficiaries who are too far from the activity to benefit from it as by those who are close enough to benefit from it.¹⁰ (In case the need for the third condition is obscure, the idea is that if an activity, say Medieval concerts on Sundays in the park, is valued only by people who live very close to the park, then there will no unsatisfied demand from elsewhere to bid up rents in the vicinity of the park.)

¹⁰ T. Nicolaus Tideman, "Efficient Local Public Goods without Compulsory Taxes," *Perspectives on Local Public Finance and Public Policy*, 2 (1985) pp. 181-202.

Another important implication of basing claims to land on the Lockean proviso is that freedom to secede would be not nearly so contested as at present. This is true for three reasons. First, if we are serious about founding our territorial claims on the idea that we are doing no more than others can do, then there has to be some *place* where they can do it. Second, if we compensate others for any excess in our claim, then someone who breaks off a chunk of our territory and takes responsibility for the claim is doing us no harm, as long as there are no lost economies of scale from the public services we provide. Finally, if those who wanted to secede were to emigrate instead, which we could not conscientiously keep them from doing, then our obligations to others for the land we were claiming would rise in proportion to the number of people who left. By taking some land with them, those who left could be doing us a favor.

When the consequences of pollution are internal to a commonwealth, the manner in which the pollution is regulated is an internal matter. When pollution has consequences outside the boundaries of a commonwealth, these must be accounted for in the determination of whether commonwealths are claiming more than their shares of what nature provides. A commonwealth that was a recipient of pollution could take account of the resulting reduction in the rental value of its land in determining whether it was claiming more than its share. The commonwealth that generated the pollution would be obliged to include in its claim upon nature the reduction in the rental value of land elsewhere that resulted from its pollution. Similarly, if one commonwealth undertook activities that raised land rents in a second commonwealth, the first could claim a corresponding credit with the clearinghouse for rent compensation, and the second would be obliged to accept a charge.

It has only recently been realized that the ecological necessity to promote rainfall and limit the carbon dioxide content of the atmosphere may require that vast amounts of land not be developed by humans. This can be taken into account, in a world adhering to the Lockean proviso, either by reaching a general agreement with respect to the land that would not be developed (which would raise the rental value of the remaining land), or by establishing prices to be paid for water evaporation, carbon storage, and other ecological services, so that those who controlled the land would find it in their interest to use the land in the ecologically necessary ways.

It is possible, though not certain, that excessive population growth would be a concern in a world that adhered to the Lockean proviso. Additional people reduce available resources per person, while also making additional economies of scale possible. It is conceivable that people would choose to have more children so that their families or their nations could claim larger shares of land in the future. In the absence of economies of scale from a larger population, such behavior would be destructive for the larger society, because the territory that one society thereby acquired would come from the shares of the other societies. If it could be seen that excessive population growth would result from having all people decide how many children to have purely in terms of advantages and disadvantages to themselves, that would be an indication that "parenting opportunities" were a limited resource, which we would have an obligation to share fairly, on a world-wide basis. Each commonwealth would then have an obligation either to limit its appropriation of parenting opportunities or else to accumulate enough additional wealth, for

appropriation to future generations, that others would not be harmed by its population growth.¹¹

While the manner in which each commonwealth regulates its population growth is a matter for the commonwealth itself to decide, it would be inappropriate to diminish the claim of any person to what nature provides on the ground that his or her parents had been too prolific. No one should be held accountable for the actions of his or her parents. And to the extent that a person contributes to a population problem by being alive, we all contribute equally to the problem.

Current Events in a Lockean Proviso World

Some of the most contentious issues of today's world could not arise in a world committed to the Lockean proviso as the foundation of territorial claims, or if they did arise, they would quickly be resolved. Considering the following examples:

The Mideast Crisis: Instead of fighting over who gets to steal the land in the Mideast last, the disputants would bid for it. When it was properly valued, everyone who wanted some could have as much as he or she wanted at the prevailing rental price. The higher the bids went, the greater would be the claims that people elsewhere could make upon land.

Northern Ireland: Instead of defending their claims to territory in Northern Ireland on the grounds that England conquered Ireland fair and square, and it was too long ago anyway, those who wish to live in Northern

¹¹ In *Social Justice in the Liberal State* (pp. 111-113, 217-221) Bruce Ackerman provides an interesting discussion of the obligation to provide equal shares for future generations, and the acceptability of charging people for having children, provided that other conditions of justice are satisfied.

Ireland while affiliating with England would make their claims on the ground that they have to live somewhere, and are taking no more than their shares of what nature offers.

The Falklands: Instead of arguing that the islands are an integral part of Argentina, or that the handful of shepherds who were kicked out by the British 150 years ago justify their claim, the Argentineans would announce what value they would place on the islands if they were included in the territory of Argentina, and the current residents would have an obligation to value them as highly in determining whether their claims to land were excessive, or else move out.

El Salvador and Nicaragua: Instead of fighting over which factions will be the rulers of these countries, the disputants would vie for the allegiance of residents and divide the territory in proportion to the numbers of followers they could attract.

South Africa: The residents would divide themselves into those who did and those who did not want to live under the rule of the present government, and would divide the land of the country accordingly.

Resources of the Sea: It is fairly well accepted, at least since Gandhi's march to the sea, that anyone should be free to take as much salt from the sea as he or she wants. There will always be as much and as good left in common for others. It is my guess that mineral nodules on the seabed fall into the same category. If they are scarce, then those who wished to take them would owe the rest of us something, but probably not very much. Fishing opportunities, on the other hand, are clearly scarce, and those who used them would acknowledge an obligation to the rest of us, in a world that was committed to the Lockean proviso as the foundation of claims upon land.

Vietnamese refugees in Hong Kong: Instead of risking their lives at sea and wasting years in refugee camps, those who were dissatisfied with the government of Vietnam would ask for a share of the territory of Vietnam on which to pursue their conception of the good Society.

Ethnic Tensions in the USSR: The constitution of the Union of Soviet Socialist Republics provides that any Republic may withdraw from the Union, but there is no legislation for implementing such a withdrawal. In setting terms for the withdrawal of a Republic, the Soviet Union would require that those who withdrew take a share of land that was no more than their share of population. If Armenia wished to control Nagorno-Karabagh and a corridor to Armenia proper, it would be able to bid for the chance to do so. If Azerbaijan wished to exclude Armenians from its territory, it would thereby diminish the amount of territory that it could claim, or else it would incur a recurring obligation to the other Republics for the excessive share of land that it was claiming.

The pattern is clear. International disputes concern claims to land. As long as positions are defended on the basis of history, we will have disagreements about what history is relevant, and we will have a world of injustice and war. We need to base our claims to land on the proportionality of our claims rather than on might-makes-right or on history.

Possible Difficulties of a Proviso World

There are several potential difficulties for a proviso world that can be foreseen. It is worth mentioning them.

Who is a person? To whom will shares of rent be allocated? Do infants count? Fetuses? Gorillas that are able to communicate with us through sign

language?¹² I am inclined to think that the most attractive approach would be to count individuals when they desire to take responsibility for themselves, independently of their parents or anyone else, and ask for shares of rent. However, it is easy to imagine others feeling strongly that other approaches would be better.

Will there be adequate financing for public goods whose benefits are not determined by location? The most prominent examples of such public goods are redistribution, the provision of wildlife preserves and other protections for nature, and investments in knowledge. An important subcategory within investments in knowledge is investments in discovering natural resources. All of these public goods would have to be provided by voluntary contributions from either individuals or collectivities. It is my view that our ability to see this issue as a potential problem is a reflection of a shared understanding that these causes deserve our support, and that for that reason these causes would be adequately financed by voluntary contributions, much as the United Nations is financed today. Ideally, all societies would recognize their obligations to compensate, in proportion to the benefits they received, those who provided activities with world-wide benefits, even if the activities did not raise land rents.

How the Change Could Occur

Changes in social conventions like the one proposed in this paper always seem impossibly utopian when they are first encountered. Such was the first response to the idea that slavery had to be abolished, that men without

¹² See Francine Patterson and Eugene Linden, *The Education of Koko*, Holt, Rinehart and Winston, 1981.

property and women had to be accorded equal political rights, that the political monopolies of the Communist parties of Eastern Europe had to be ended. And yet all these changes occurred. How does the seemingly impossible happen?

The seemingly impossible happens because the understanding that it must happen becomes a consensus. The process of building such a consensus is tedious, and it is not obvious in advance which proposals for a new consensus will succeed. The combination of moral blindness induced by self-interest, widespread fear of the unforeseeable consequences of any sharp departure from the status quo, and downright knavish genius of those in positions of power often seem to conspire to preclude any reform. And yet the possibility that a reform cannot be attained does not imply that any particular individual should reject that reform. If a proposed reform would be attractive if others accepted it, each person can at least acknowledge this in his or her own mind, and perhaps to friends. One never knows when one's minute contribution will provide the increment that creates a critical mass and starts a self-sustaining chain reaction. It is interesting to note that if everyone who supported a proposal succeeded in convincing one person per month to become a supporter, in a period of 32 months the number of supporters would grow from one to over four billion.

But before the issue of support becomes relevant, each person must decide whether a proposed reform is even worth evaluating. It is not unreasonable that most of us dismiss most reform ideas we encounter with barely a second thought. What are the chances that the idea will deserve our support? We have better uses for our time than to entertain hare-brained schemes. Because the success of a worthwhile proposal for transforming social conventions

requires persuading multitudes of people to overcome their natural doubt that the proposal is even worth considering, it is important for the advocates of a proposal to have ways of bringing the coherence of their ideas to the attention of the doubters. In the long struggle to end slavery, one of the early turning points occurred in the mid 1700's, when the Quakers of Pennsylvania voluntarily freed the slaves they had held, amidst growing pressure within their own community. The example of this action made it impossible to deny that freeing slaves was possible.

Thus it is important that steps toward implementing the proposal presented in this paper can be taken by voluntary individual and community initiative, before everyone agrees on the value of the change. Any person or group can bring his, her or their behavior into conformity with the proposed norm of equal sharing of land, as a step toward achieving the ideal. For individuals, this would mean estimating the value of the land they use and taking steps to compensate others if the total value was excessive. If only a few people were trying to do this, the most appropriate form of compensation would probably be a contribution to some organization like CARE that provides for people whose claims upon nature are far below the norm. When more people wanted to participate, it would be possible to adjust compensation paid more precisely. Initially, everyone would have to make his or her own estimate of what was owed in compensation. As more people came to participate, it would be worthwhile for someone to undertake systematic research into the best way to estimate one's obligation. Estimates would be published concerning such matters as how much one ought to include in one's obligation for each gallon of gasoline consumed. At a later point, some of the sellers of items like gasoline, with high natural resource components, would guarantee buyers that

compensation was already included in the price paid. People would then come to refrain from trading with those who could not provide such guarantees.

People who realized that their holdings of land were excessive would come to see that selling their holdings did not solve the problem, but merely displaced it. Non-profit organizations would be formed for the purpose of holding land titles and the proceeds of sales of natural resources in trust for all humanity. This would be the counterpart of slave owners freeing their slaves rather than selling them, when they realized that slavery was immoral.

As the new understanding spread, a transition would occur from individual to democratic action. Nations would incorporate into their laws the rule that if the nation's use of land exceeded claims consistent with Locke's proviso, then compensation would be paid to people or nations with less than proportionate shares of land. International pressure would be put on all nations to conform to the standard. Once compensation was paid when claims were excessive, nations would have no reason to thwart secessionist movements. They would justify their boundaries not on the basis of history or might-makes-right, but rather on the basis of there being as much and as good left in common for others. Such a convention could provide a basis for sustaining lasting peace.